Tax Reform Working Groups
Committee on Ways and Means
U.S. House of Representatives
April 15, 2013

On behalf of the Small Business & Entrepreneurship Council (SBE Council) and our 100,000 members and supporters nationwide, I am writing to provide comments to the Tax Reform Working Groups on the effort to reform our nation's tax system. We thank Ways and Means Chairman Dave Camp (R-MI) and Ranking Member Sanders Levin (D-MI) for their bipartisan collaboration on this critical undertaking. Making the tax system more hospitable to entrepreneurship and small businesses is not only a top priority for SBE Council, but needs to be for our nation's economy as a whole. Thank you for your leadership in pushing this effort forward.

SBE Council is very hopeful that the time and effort invested by House members in this initiative will produce positive outcomes for America's entrepreneurs. SBE Council is pleased that we have been given the opportunity to provide direct input to the working group on small business regarding the discussion draft, including additional ways to improve and simplify the tax system so that it strengthens entrepreneurship and start-up activity in the United States.

SBE Council is pleased with specific proposals presented in the small business discussion draft, and we encourage all the working groups to be bold in their reform proposals. Specifically, proposals that are pro-growth in nature and ones that will encourage capital formation, investment and increased start-up activity are desperately needed given the frail recovery and state of the economy. Given the mobility of capital, as well as reforms other nations have undertaken to attract investment, it is vitally important that changes be advanced that make our tax system more globally competitive.

As tax reform working group members are well aware, small business owners have been suffering under either a depressed or weak economy for more than five years. There has also been an "entrepreneurship recession," if you will, during this same period. Reforming our tax system in a pro-growth way will help to boost startup activity and give existing businesses the relief, certainty and incentives they need to survive, compete and grow. There is no doubt that instability in the tax code has contributed to lower levels of investment and business confidence. On top of economic concerns and weakness, small business owners cannot plan if taxes, tax rates and tax incentives are perpetually changing. Therefore the effort to reform the system provides an opportunity to lock in pro-growth, pro-entrepreneur changes that will deliver the certainty small business owners need to grow and succeed.

The U.S. desperately needs to get entrepreneurship back to healthy levels in order to promote job creation, innovation and strong economic growth. According to Census Bureau data, the annual number of new firms plummeted by 30 percent between 2006 and 2010:

Year	# of Firms
2006:	561,293
2007:	529,277
2008:	491,559
2009:	410,723
2010:	394,632

Data from the Bureau of Labor Statistics tell a similar story in terms of unincorporated self-employed. On a seasonally adjusted basis, the recent high was reached in December 2006 at 10.86 million. That has declined to 9.117 million in March 2013 – a 16 percent decline. Finally, BLS data on incorporated self-employed fell from 5.784 million in 2008 to 5.127 million in 2011. And them climbed up a bit to 5.253 million in 2012. From 2008 to 2012, the decline registered 9.2 percent.

Obviously, tax reform can be used as a vehicle to encourage entrepreneurship – by lowering compliance burdens and costs, through simplification and by advancing reforms that encourage capital formation (access to capital) and investment. That is why SBE Council is so enthused about this important effort.

Lower Tax Rates: Certainly, lower tax rates need to be a central feature of tax reform. Proposals, for example, to bring the top personal and corporate income tax rates down to 25 percent would be a massive boost to all of our businesses. As noted above, lowering rates is a competitiveness issue as personal tax rates in the U.S. (federal and state combined) stand at 47 percent vs. the global average of 32 percent. For corporate tax rates, the U.S. stands at 40 percent (federal and state combined) vs. the global average of 24 percent. It is absolutely essential to the economy's growth, and job creation, that these rates be lowered, particularly given the pace of change that is occurring globally. Countries are cutting corporate tax rates, and it is unacceptable that the U.S. has the highest corporate tax rate in the developed world. In addition, the World Bank Doing Business 2013 report shows that the U.S. ranks an abysmal 69th in the world in the "paying taxes" category with the total tax rate at 46.7 percent. The U.S. continues to decline in this area due to increasingly higher rates, along with complexity in our tax system.

To encourage capital formation and investment, the U.S. ideally would eliminate the individual capital gain tax. The next best alternative would be to reduce the rate and index for inflation. We believe President Obama's proposal to zero out capital gains for startups, while worthy, needs to be expanded beyond "qualified" businesses (such as to S Corps, LLCs, etc.) so that small businesses across the board can benefit from this measure. And, while investment in startups is vitally important, so is investment in the mature, higher-growth enterprise where accessing capital becomes an even greater challenge. Once investment crowdfunding rules are established by the Securities and Exchange Commission, lower capital gains tax rates align with the principle of democratizing access to capital and investment opportunities. And again, the U.S. needs to look at where our nation stacks up globally with respect to capital gains tax rates – fourteen OECD countries have no tax on capital gains at all. According to the Tax Foundation, the top capital gains tax rate in every state (in the U.S.) is now higher than the OECD average ever since the fiscal cliff deal was signed into law.

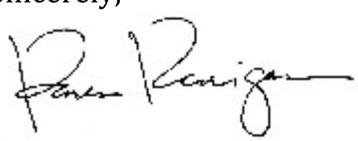
Small Business Tax Reform Discussion Draft: With respect to the small business discussion draft, SBE Council believes that reforms within the draft align with small business concerns regarding complexity and cost, as well as bringing certainty and stability to the tax system. For example, making section 179 expensing permanent will spur investment and allow small business owners and entrepreneurs to plan their investments more rationally. SBE Council would welcome full expensing for all businesses. The goal of simplification in the discussion draft is met by expanding the use of the cash accounting method by more small businesses. A unified deduction for startup businesses, as outlined in the draft, is a simpler approach for new entrepreneurs and provides relief. Reordering and simplifying the due dates of tax returns for partners and S corporations will also make tax compliance easier as will the options for reform of the tax rules applicable to these businesses.

The draft discussion on small business tax reform certainly is a good start. Some questions remain on other issues of importance to small businesses, like the death tax, for example, which should be zeroed out. SBE Council also favors looking at innovative ways to encourage startup and youth entrepreneurship by modernizing/updating the $400 self-employment exemption, which has not been changed since the 1950's. With youth entrepreneurship at an all-time low (and youth unemployment rates at high levels) encouraging more young people to start businesses is a self-help tool that would pay long-term dividends for business ownership in the U.S. in general. If the federal government/IRS had kept the self-employment exemption with the same rate as the standard deduction, that exemption would now be $6,250. Why not make these equal, which would amount to $5,950 (2012)?

Legitimate Business Expenses: While SBE Council supports eliminating loopholes and deductions that have made their way into the tax code, we ask tax reform working group to understand false efforts that portray ordinary business expense deductions as loopholes where they are not. One example of this is interest on debt, which some advocate be eliminated. Eliminating this legitimate business expense would harm startup activity and access to capital as **more than 75 percent of startups** use some form of debt financing, according to a study by Rebel Cole at DePaul University and Tatyana Sokolyk of Brock University. LIFO ("last in, first out") is also not a "loophole." It is a legitimate accounting method that has been used and accepted since the 1930's. The majority of businesses using the LIFO method are small businesses.

Again, SBE Council thanks Chairman Camp and Ranking Member Levin for their efforts, as well as all the members and leaders of the working groups on tax reform for their leadership and work.   Tax reform gives us the opportunity to make our system less burdensome for small business owners and entrepreneurs, while enabling entrepreneurship and economic growth. Please do not hesitate to call upon the SBE Council if we can be of further help in advancing tax reform policies and initiatives that will help small businesses grow and succeed.

Sincerely,



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